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10/804,330	03/19/2004	Gregory S. Thoen	32643/101	7019

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EXAMINER
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ART UNIT	PAPER NUMBER
4152	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/804,330	THOEN, GREGORY S.
	Examiner	**Art Unit**	
	HO SHIU	4152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 March, 2004*.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-36* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *14 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-63 are pending in this application.

2.   Claims 1-36 are elected without traverse by applicant's election filed on

01/07/2008.

3.   Claims 37-63 are cancelled.

Election/Restrictions

4.   Applicant's election without traverse of invention I, claims 1-36 in the reply filed

on 01/07/2008 is acknowledged.

Claim Objections

5.   With respect to claims 14 and 15, it seemed that they are supposed to be

dependent claims of claim 13 instead of claim 1. For examination purposes, claims 14

and 15 will be treated as dependent claims of claim 13. Appropriate corrections are

required.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

7.   Claims 1-2, 8, 10-14, 20, 22-26, 32, 34-36 are rejected under 35 U.S.C. 102(e)

as being anticipated by Egli et al. (Pub # US 2003/0110234 A1, hereinafter Egli).

8.   With respect to claim 1, Egli discloses a system for providing content to a client

system, the system comprising ([0058], lines 4-7): an assessment system that obtains

content presentation environment information associated with the client system ([0066],

lines 1-4, [0068], lines 17-20), wherein the content presentation environment information

is based on an operating environment evaluation of the client system performed by an

evaluation system ([0058], lines 7-12); and a content processing system that selects

one of a plurality of versions of the content to send the client system using the obtained

content presentation environment information ([0060], lines 1-6).

9.   With respect to claim 2, Egli discloses wherein the obtained content presentation

environment information comprises a first identifier for a content presentation

application associated with the client system ([0069], lines 1-11) and a second identifier

for a content transfer rate associated with the client system ([0102], lines 1-7, [0103],

lines 5-8, client capabilities are defined inside the content-type tag by one or more

capability tags).

10.   With respect to claim 8, Egli discloses wherein the assessment system

determines whether stored content presentation environment information is available for

retrieval from the client system ([0059], lines 14-21, it is comparing to known device

characteristic and capabilities), wherein the evaluation system evaluates the operating

environment of the client system to obtain the content presentation environment

information if the stored content presentation environment information is determined to

be unavailable ([0066], lines 1-10, [0069], lines 11-15, client capabilities module (CCM)

log 323 includes a record of any client devices that could not be identified or for which

capabilities are not available).

11.   With respect to claim 10, Egli discloses a content delivery system that sends the

selected content to the client system in response to a request from the client system,

wherein neither the assessment system, the evaluation system, the content processing

system, nor the content delivery system request any additional information from the

client system ([0068], lines 10-20, it requires information from the data store and not the

client system itself).

12.   With respect to claim 11, Egli discloses the content delivery system sends the

selected content at a content transfer rate that the selected content is formatted to be

sent at ([0102], lines 1-7, [0107], lines 1-4, lines 15-18).

13.   With respect to claim 12, Egli discloses the content comprises at least one of

video content, audio content, hypertext content and document content ([0065], lines 1-

6).

14.   With respect to claim 13, Egli discloses a method for providing content to a client

system ([0058], lines 4-7):, the method comprising: obtaining content presentation

environment information associated with the client system ([0066], lines 1-4, [0068],

lines 17-20), wherein the content presentation environment information is based on an

operating environment evaluation of the client system ([0058], lines 7-12); and selecting

one of a plurality of versions of the content to send the client system using the obtained

content presentation environment information ([0060], lines 1-6).

15.   With respect to claim 14, Egli discloses wherein the obtained content

presentation environment information comprises a first identifier for a content

presentation application associated with the client system ([0069], lines 1-11) and a

second identifier for a content transfer rate associated with the client system ([0102],

lines 1-7, [0103], lines 5-8, client capabilities are defined inside the content-type tag by

one or more capability tags).

16.   With respect to claim 20, Egli discloses the obtaining content presentation environment information associated with the client system comprises determining whether stored content presentation environment information is available for retrieval from the client system ([0059], lines 14-21, it is comparing to known device characteristic and capabilities), and evaluating the operating environment of the client system to obtain the content presentation environment information if the stored content presentation environment information is determined to be unavailable ([0066], lines 1-10, [0069], lines 11-15, client capabilities module (CCM) log 323 includes a record of any client devices that could not be identified or for which capabilities are not available).

17.   With respect to claim 22, Egli discloses sending the selected content to the client system in response to a request from the client system without requesting any additional information from the client system ([0068], lines 10-20, it requires information from the data store and not the client system itself).

18.   With respect to claim 23, Egli discloses the selected content is sent at a content transfer rate that the selected content is formatted to be sent at ([0102], lines 1-7, [0107], lines 1-4, lines 15-18).

19.   With respect to claim 24, Egli discloses the content comprises at least one of

video content, audio content, hypertext content and document content ([0065], lines 1-

6).

20.   With respect to claim 25, Egli discloses a computer-readable medium having

stored thereon instructions for providing content to a client system, which when

executed by at least one processor, causes the processor to perform ([0058], lines 4-7,

a system which is a computer has a place for memory storage and also includes a

processor): obtaining content presentation environment information associated with the

client system ([0066], lines 1-4, [0068], lines 17-20), wherein the content presentation

environment information is based on an operating environment evaluation of the client

system ([0058], lines 7-12); and selecting one of a plurality of versions of the content to

send the client system using the obtained content presentation environment information

([0060], lines 1-6).

21.   With respect to claim 26, Egli discloses the obtained content presentation

environment information comprises a first identifier for a content presentation

application associated with the client system ([0069], lines 1-11) and a second identifier

for a content transfer rate associated with the client system ([0102], lines 1-7, [0103],

lines 1-11, client capabilities are defined inside the content-type tag by one or more

capability tags).

22.   With respect to claim 32, Egli discloses the obtaining content presentation

environment information associated with the client system comprises determining

whether stored content presentation environment information is available for retrieval

from the client system ([0059], lines 14-21, it is comparing to known device

characteristic and capabilities), and evaluating the operating environment of the client

system to obtain the content presentation environment information if the stored content

presentation environment information is determined to be unavailable ([0066], lines 1-

10, [0069], lines 11-15, client capabilities module (CCM) log 323 includes a record of

any client devices that could not be identified or for which capabilities are not available).

23.   With respect to claim 34, Egli discloses sending the selected content to the client

system in response to a request from the client system without requesting any

additional information from the client system ([0068], lines 10-20, it requires information

from the data store and not the client system itself).

24.   With respect to claim 35, Egli discloses the selected content is sent at a content

transfer rate that the selected content is formatted to be sent at ([0102], lines 1-7,

[0107], lines 1-4, lines 15-18).

25.   With respect to claim 36, Egli discloses the content comprises at least one of

video content, audio content, hypertext content and document content ([0065], lines 1-

6).

Claim Rejections - 35 USC § 103

26.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

27.   Claims 3-6, 15-18, and 27-30 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Egli as applied to claims 1, 13, and 25 in view of Hurwitz (US

Patent # 6,256,669 B1, hereinafter Hurwitz).

28.   With respect to claim 3, Egli discloses the evaluation system performs the

operating environment evaluation of the client system by determining at least one or

more types or versions of one or more Web browsers associated with the client system

([0075], lines 1-8), one or more types or versions of one or more content presentation

applications associated with the client system ([0064], lines 1-7, [0093], lines 1-9), and

one or more types or versions of one or more operating systems associated with the

client system ([0005], lines 14-17, [0059], lines 19-21, PDA loaded with Palm is a

different operating system than a PDA with Windows CE) but does not disclose one of a

current content transfer rate for the client system.

In the same field of endeavor, Hurwitz discloses one of a current content transfer rate for the client system (summary of the invention, column 2, lines 14-23).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Egli with the teachings of Hurwitz in order to have the capability to determine the bandwidth available (column 2, lines 7-9).

29.   With respect to claim 4, it is rejected for the same reasons as claim 3 above. In addition, Hurwitz discloses the evaluation system determines the current content transfer rate for the client system by sending an operation execution request to the client system (summary of the invention, Column 2, lines 14-23) and calculating an amount of time taken by the client system to perform an operation associated with the operation execution request (column 4, lines 41-50), wherein the amount of time is measured from when the operation execution request is sent until the evaluation system is notified that the client system completed performing the operation (summary of the invention, column 2, lines 14-23, column 4, lines 46-50).

30.   With respect to claim 5, it is rejected for the same reasons as claim 3 above. In addition, Hurwitz discloses the operation comprises rendering an image transmitted from the evaluation system to the client system (column 4, lines 51-57, lines 63-66).

31.   With respect to claim 6, Egli discloses wherein the one or more types of content

presentation applications comprise at least one of a video presentation application, an

audio presentation application, a hypertext document presentation application, and a

document processing application ([0065], lines 1-6).

32.   With respect to claim 15, Egli discloses the obtaining content presentation

environment information associated with the client system comprises performing the

operating environment evaluation of the client system by determining at least one or

more types or versions of one or more Web browsers associated with the client system

([0075], lines 1-8), one or more types or versions of one or more content presentation

applications associated with the client system ([0064], lines 1-7, [0093], lines 1-9), and

one or more types or versions of one or more operating systems associated with the

client system ([0005], lines 14-17, [0059], lines 19-21, PDA loaded with Palm is a

different operating system than a PDA with Windows CE) but does not disclose one of a

current content transfer rate for the client system.

In the same field of endeavor, Hurwitz discloses one of a current content transfer

rate for the client system (summary of the invention, column 2, lines 14-23).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to modify the teachings of Egli with the teachings of

Hurwitz in order to have the capability to determine the bandwidth available (column 2,

lines 7-9).

33.   With respect to claim 16, it is rejected for the same reasons as claim 15 above.

In addition, Hurwitz discloses determining a current content transfer rate for the client

system comprises sending an operation execution request to the client system

(summary of the invention, Column 2, lines 14-23) and calculating an amount of time

taken by the client system to perform an operation associated with the operation

execution request (column 4, lines 41-50), wherein the amount of time is measured from

when the operation execution request is sent until a notification that the client system

completed performing the operation is received (summary of the invention, column 2,

lines 14-23, column 4, lines 46-50).

34.   With respect to claim 17, it is rejected for the same reasons as claim 15 above.

In addition, Hurwitz discloses the operation associated with the operation execution

request that is performed by the client system comprises rendering an image

transmitted to the client system (column 4, lines 51-57, lines 63-66).

35.   With respect to claim 18, Egli discloses one or more types of content

presentation applications comprise at least one of a video presentation application, an

audio presentation application, a hypertext document presentation application, and a

document processing application ([0065], lines 1-6).

36.   With respect to claim 27, Egli discloses obtaining content presentation

environment information associated with the client system comprises performing the

operating environment evaluation of the client system by determining at least one or more types or versions of one or more Web browsers associated with the client system ([0075], lines 1-8), one or more types or versions of one or more content presentation applications associated with the client system ([0064], lines 1-7, [0093], lines 1-9), and one or more types or versions of one or more operating systems associated with the client system ([0005], lines 14-17, [0059], lines 19-21, PDA loaded with Palm is a different operating system than a PDA with Windows CE) but does not disclose one of a current content transfer rate for the client system.

In the same field of endeavor, Hurwitz discloses one of a current content transfer rate for the client system (summary of the invention, column 2, lines 14-23).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Egli with the teachings of Hurwitz in order to have the capability to determine the bandwidth available (column 2, lines 7-9).

37.   With respect to claim 28, it is rejected for the same reasons as claim 27 above. In addition, Hurwitz discloses determining a current content transfer rate for the client system comprises sending an operation execution request to the client system (summary of the invention, Column 2, lines 14-23) and calculating an amount of time taken by the client system to perform an operation associated with the operation execution request (column 4, lines 41-50), wherein the amount of time is measured from when the operation execution request is sent until a notification that the client system

completed performing the operation is received (summary of the invention, column 2, lines 14-23, column 4, lines 46-50).

38.   With respect to claim 29, it is rejected for the same reasons as claim 27 above. In addition, Hurwitz discloses the operation associated with the operation execution request that is performed by the client system comprises rendering an image transmitted to the client system (column 4, lines 51-57, lines 63-66).

39.   With respect to claim 30, Egli discloses one or more types of content presentation applications comprise at least one of a video presentation application, an audio presentation application, a hypertext document presentation application, and a document processing application ([0065], lines 1-6).

40.   **Claims 7, 9, 19, 21, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egli as applied to claims 1, 8, 13, 20, 25, and 32 in view of Eames et al. (US PUB # 2005/0015551 A1, hereinafter Eames).**

41.   With respect to claims 7, 19, and 31, Egli discloses the content presentation environment information ([0059], lines 14-21) but does not disclose it is stored at a location accessible to the client system.

In the same field of endeavor, Eames discloses it is stored at a location accessible to the client system ([0018], lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Egli with the teachings of Eames in order to change/update information that the client deems necessary.

42.   With respect to claim 9, Egli discloses the obtained content presentation environment information ([0066], lines 1-10, [0069], lines 11-15) but does not disclose storing it at a location accessible to the client system.

In the same field of endeavor, Eames discloses storing it at a location accessible to the client system ([0018], lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Egli with the teachings of Eames in order to change/update information that the client deems necessary.

43.   With respect to claims 21 and 33, Egli discloses the assessment system and the obtained content presentation environment information ([0066], lines 1-10, [0069], lines 11-15) but does not disclose storing at a location accessible to the client system.

In the same field of endeavor, Eames discloses storing it at a location accessible to the client system ([0018], lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Egli with the teachings of Eames in order to change/update information that the client deems necessary.

Conclusion

44.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

    a.   Chavez et al., US PUB # 2005/0068889, the method saves call state information to increase the natural network reliability by distributing the information. The method is highly scalable as clients store the call state information, and avoids the need for sending updated call information to a central database or to alternate call controllers. The method is simple to implement and requires relatively few resources. The method do not require the clients to be capable of recognizing the content of the call state information files, and hence changes can be made to the structure and content of the files without requiring changes to the client.

    b.   Lee et al., US Patent # 6,658,167 B1, Reduces quantity of data forwarded between server and client. Increases bandwidth between server and client. Ensures customizing changed data by calculating based on modification data.

45.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to HO SHIU whose telephone number is (571)270-3810. The examiner can normally be reached on Mon-Thur (7:30am - 6:00pm).

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nabil El-Hady can be reached on 571-272-3963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HTS   /Vincent F. Boccio/
02/27/2008   Primary Examiner, Art Unit 2165